

STATE OF CALIFORNIA
SAVINGS PLUS PROGRAM
ALTERNATE RETIREMENT PROGRAM

Effective August 1, 2004

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**STATE OF CALIFORNIA
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Effective August 1, 2004

SECTION 1

Background of Plan

1.1 Introduction. The State of California Department of Personnel Administration, pursuant to Section 19999.3 of the California Government Code, hereby establishes this State of California Savings Plus Program Alternate Retirement Program (the “Plan”), effective August 1, 2004, for the purpose of attracting and retaining certain employees of the State of California. The Plan is a defined contribution, profit sharing plan¹, intended to meet the applicable requirements of Section 401(a) of the Internal Revenue Code of 1986, as amended. Capitalized terms used in the Plan are defined in Section 2.

1.2 Plan Supplements. The Plan may be modified by supplements to the Plan. The terms and provisions of each supplement are a part of the Plan and supersede the provisions of the Plan to the extent necessary to eliminate inconsistencies between the Plan and such supplement.

SECTION 2

¹ As set forth in Section 401(a)(27) of the Internal Revenue Code.

Definitions

Wherever used in this Plan, the following terms have the meanings indicated below, unless a different meaning is plainly required by the context. The singular includes the plural, unless the context indicates otherwise.

2.1 “Account” means the account established for a Participant, Beneficiary, or Alternate Payee to reflect his or her interest under the Plan.

2.2 “Account Access Date” means the first day of the 47th month after the month in which a Participant first qualifies for CalPERS membership.

2.3 “Account Closing Date” means the last day of the 49th month after the month in which a Participant first qualifies for CalPERS membership.

2.4 “Accounting Date” means each day the value of an Investment Fund is adjusted for Contributions, distributions, transfers, earnings, gains, or losses.

2.5 “Alternate Payee” means any spouse, former spouse, child, or other dependent of a Participant who is recognized by a QDRO as having a right to receive all, or a portion of, the benefits payable with respect to a Participant.

2.6 “Beneficiary” means, immediately after a Participant’s death, the first of the following natural or legal persons:

- (a) if the Participant dies before January 1, 2005, the Participant's Spouse; if the Participant dies on or after January 1, 2005, the Participant's Spouse or Domestic Partner; or, in either case, if none;
- (b) the Participant's children (including adopted children), or if none;
- (c) the Participant's parents, or if none;
- (d) the Participant's brothers and sisters, or if none;
- (e) the Participant's estate, or if not probated;
- (f) the Participant's trust, or if none;
- (g) the Participant's stepchildren, or if none;
- (h) the Participant's grandchildren, or if none;
- (i) the Participant's nieces and nephews, or if none;
- (j) the Participant's great-grandchildren, or if none;
- (k) the Participant's cousins, or if none;
- (l) in accordance with state law for intestate estates.

2.7 "CalPERS" means the California Public Employees' Retirement System.

2.8 "Code" means the Internal Revenue Code of 1986, as amended.

2.9 “Compensation” means, except as otherwise specified in the Plan, adjusted gross salary for services rendered to the State as an employee including payment of accrued but unused vacation pay, sick pay (to which the Participant is otherwise entitled due to a disability retirement) and leave pay paid or made available to an employee at the time of separation from service or retirement. In no event will the amount of a Participant’s Compensation taken into account for purposes of the Plan for any Plan Year exceed \$200,000 (as that limitation is adjusted from time to time by the Secretary of the Treasury pursuant to Section 401(a)(17) of the Code).

2.10 “Contributions” means contributions made to the Plan pursuant to Section 4.

2.11 “Department” means the State of California Department of Personnel Administration, Savings Plus Program.

2.12 “Direct Rollover” means an Eligible Rollover Distribution paid directly from the Plan to an Eligible Retirement Plan for the benefit of an Eligible Distributee as described in Section 401(a)(31) of the Code.

2.13 “Domestic Partner” means a person designated as a Participant’s domestic partner at the time and in the manner required by the Department, provided that only an unmarried Participant may have a Domestic Partner.

2.14 “Eligible 457(b) Plan” means a plan established under Section 457(b) of the Code that is maintained by a state, a political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state.

2.15 “Eligible Distributee” means (i) a Participant, (ii) a Participant’s surviving spouse who is entitled to receive payment of the balance of the Participant’s Account after the Participant’s death, or (iii) the spouse or former spouse of a Participant who is an Alternate Payee.

2.16 “Eligible Employee” means any employee on the Payroll of the State who (i) is first hired by the State on or after August 11, 2004; (ii) is eligible to participate in CalPERS under either the State Miscellaneous or the State Industrial classification; and (iii) meets the definition of “State Employee” under Section 19815 of the California Government Code. A person’s status as Eligible Employee will be determined in accordance with the following requirements:

- (a) The Department shall determine a person’s status as Eligible Employee, and this determination will be conclusive and binding on all persons.
- (b) Notwithstanding anything to the contrary, Eligible Employee does not include any of the following:
 - (i) persons eligible to participate in CalPERS under the State Safety, State Patrol, or State Peace Officer/Firefighter classification;
 - (ii) persons who have accrued service credit for unpaid retirement benefits under CalPERS;
 - (iii) members of a CalPERS reciprocal retirement system within the prior six months;

- (iv) members of the Judges' Retirement System, Judges' Retirement System II, Legislators' Retirement System, California State Teachers' Retirement System, or the University of California Retirement Plan;
- (v) employees of the California State University, the California legislative, or judicial branch of government;
- (vi) persons employed as California Highway Patrol cadets;
- (vii) non-resident aliens who are employed on an F-1, J-1, M-1, or A-1 visa, and who are not coordinated with Social Security;
- (viii) part-time employees;
- (ix) seasonal employees;
- (x) temporary employees;
- (xi) retired annuitants (employees who are employed on a temporary basis and are receiving a retirement allowance from CalPERS);
- (xii) leased employees;
- (xiii) contract employees;
- (xiv) independent contractors; or
- (xv) reclassified employees (employees who are not initially classified by the State as common-law employees, but who are reclassified as common-law employees by a governmental agency, court or other third party).

- (c) Only persons treated by the State as common-law employees (and not otherwise excluded from the definition of Eligible Employee) are eligible to participate in the Plan. If, during any period, the State does not treat an individual as a common-law employee and, for that reason, does not withhold employment taxes with respect to that individual, then that individual will not be eligible to participate in the Plan during that period, even if that individual is determined, retroactively, to have been a common-law employee during all or any portion of that period.

2.17 “Eligible Retirement Plan” means any of the following: (i) an individual retirement account described in Section 408(a) of the Code; (ii) an individual retirement annuity described in Section 408(b) of the Code (other than an endowment contract); (iii) an annuity plan described in Section 403(a) of the Code; (iv) a plan qualified under Section 401(a) of the Code; (v) an Eligible 457(b) Plan; or (vi) an annuity contract described in Section 403(b) of the Code.

2.18 “Eligible Rollover Distribution” means any distribution under the Plan to an Eligible Distributee other than: (i) a distribution required to meet the minimum distribution requirements of Section 401(a)(9) of the Code; or (ii) a distribution excluded from the definition of an “Eligible Rollover Distribution” under applicable Income Tax Regulations. Eligible Rollover Distribution does not include amounts transferred pursuant to Section 9.2(b) or (c).

2.19 “Investment Funds” means the investment fund or funds designated by the Department for the investment of Accounts.

2.20 “Leave of Absence” means an absence from work that is either: (i) not treated by the State as a termination of employment; or (ii) required by law to be treated as a leave of absence.

2.21 “Participant” means an Eligible Employee who participates in the Plan as provided in Section 3.

2.22 “Payroll” means the system used by the State to pay those individuals the State treats as its employees for their services and to withhold employment taxes from the compensation it pays to such employees. Payroll does not include any system the State uses to pay individuals whom the State does not treat as its employees and for whom the State does not actually withhold employment taxes (including, but not limited to, individuals the State treats as independent contractors).

2.23 “Plan” means this State of California Savings Plus Program Alternate Retirement Program.

2.24 “Plan Year” means the twelve-month period beginning each January 1 and ending December 31.

2.25 “QDRO” means a qualified domestic relations order as defined in Section 414(p) of the Code, as it applies to a governmental plan.

2.26 “Spouse” means, subject to the provisions of any QDRO, the person to whom a Participant is legally married at the earlier of the date of the Participant’s death or the date payment of the Participant’s benefits commences and who is living at the date of the Participant’s death.

2.27 “State” means the State of California.

2.28 “Thrift Plan” means the State of California Savings Plus Program Thrift Plan, a 401(k) plan maintained by the Department.

2.29 “Trust” means the trust account established pursuant to the Trust Agreement between the State and the Trustee.

2.30 “Trust Agreement” means the separate agreement entered into by and between the Department and the Trustee, pursuant to which the Trust is held, administered and distributed.

2.31 “Trustee” means the person(s) or entity, and any successors thereto, named in the Trust Agreement who is appointed by the Department to act as trustee of the Trust.

SECTION 3

Eligibility and Participation

3.1 Eligibility to Participate. Subject to this Section 3, an Eligible Employee will automatically become a Participant in the Plan on the later of (i) his or her date of hire, or (ii) the date he or she becomes an Eligible Employee.

3.2 Mandatory Participation. An Eligible Employee's participation in this Plan is mandatory. No Eligible Employee may elect not to participate in the Plan.

3.3 Period of Participation. A person who becomes a Participant will continue as a Participant until the earlier of the Account Closing Date, or the date on which all assets in the Participant's Account have been distributed or transferred.

3.4 Leave of Absence. A Leave of Absence will not interrupt continuity of service or an employee's status as a Participant in the Plan. Leaves of Absence will be granted under rules established by the State and applied uniformly to all similarly situated Eligible Employees.

3.5 Qualified Military Service. Notwithstanding any provision of the Plan to the contrary, contributions, benefits, and service credit with respect to qualified military service will be provided in accordance with Section 414(u) of the Code.

3.6 Commencement or Resumption of Participation.

- (a) If a Participant terminates employment with the State before the last day of the period of participation described in Section 3.3 and is subsequently reemployed by the State before the last day of that period, the Participant will again be eligible

to participate in the Plan as of the first day of the Participant's reemployment as an Eligible Employee, but only until the close of business on the last day of the original participation period.

- (b) If a Participant terminates employment with the State on or before the last day of the period of participation described in Section 3.3 and is subsequently reemployed by the State after the last day of that period, he or she will not again become a Participant.
- (c) If an employee who is not a Participant terminates employment with the State and is subsequently is reemployed by the State, he or she will be eligible to become a Participant in the Plan in accordance with Section 3.1.

SECTION 4

Contributions

4.1 In General. All Contributions under the Plan will be made as “pick-up” Contributions as described under Section 4.2. Contributions will be withheld from each Participant’s Compensation and contributed to the Plan on the Participant’s behalf by the State to the Trustees in cash as soon as practicable. As of each Accounting Date, each Participant’s Contributions (if any) since the preceding Accounting Date will be credited to the Participant’s Account. No Contributions will be made to or under this Plan except in accordance with this Section 4.

4.2 Pick-Up Contributions.

- (a) Beginning on the first day on which an Eligible Employee becomes a Participant, and ending on the two-year anniversary of that date, Contributions will automatically be withheld from the Participant’s Compensation and allocated to his or her Account under this Plan as an employer “pick-up” within the meaning of Section 414(h)(2) of the Code.
- (b) For each month, the amount of such Contributions will be equal to five percent of the excess (if any) of the Participant’s Compensation for that month over \$513. No Contributions will be made for any month in which the Participant’s Compensation does not exceed \$513.
- (c) Contributions will be made in accordance with the rules governing pick-ups under Section 414(h)(2) of the Code, including the following:

- (i) They will be paid by the State directly to the Plan in lieu of deferrals by the Participant.
- (ii) The Participant may not choose to directly receive the amounts deducted from his or her Compensation instead of having them paid by the State to the Plan.

SECTION 5

Investment of Accounts

All amounts held in Accounts will be invested in one or more Investment Funds designated by the Department in its sole discretion. It is anticipated that the Department will invest Accounts in a stable value fund in order to provide liquidity and stability in asset value. The Department, in its sole discretion, may designate or establish new Investment Funds or eliminate existing Investment Funds.

SECTION 6

Accounting

6.1 Accounts. The Department shall maintain an Account in the name of each Participant, Beneficiary in the case of the Participant's death, or Alternate Payee, as applicable.

6.2 Accounting Dates. Each day the value of an Investment Fund is adjusted for contributions, distributions, transfers, earnings, gains, or losses, is an Accounting Date. It is anticipated that each Investment Fund will be valued as of each day on which the New York Stock Exchange is open for trading.

6.3 Adjustment of Account in Investment Funds. Accounts invested in the Investment Funds will be maintained on the basis of dollar values or units that may be converted to dollar values. Pursuant to rules established by the Department, assets in an Investment Fund will be adjusted as of each Accounting Date to reflect any distributions, transfers, Contributions, earnings, gains, or losses with respect to such assets since the previous Accounting Date on which such assets were adjusted.

6.4 Qualified Domestic Relations Orders. Separate Accounts will be set up for Alternate Payees under QDROs and administered in accordance with procedures adopted by the Department.

6.5 Vesting. All amounts in Accounts under the Plan will be fully and immediately 100% vested.

SECTION 7

Trust

7.1 Trust Agreement. All amounts of compensation deferred under the Plan, all property and rights purchased with such amounts and all income attributable to such amounts, property or rights will be held in the Trust for the exclusive benefit of Participants, Beneficiaries and Alternate Payees under the Plan. Amounts contributed under the Plan will be held and invested, until distributed, by the Trustee. The Trustee shall act in accordance with the terms of the Trust Agreement between the State and the Trustee. The Trust Agreement implements the Trust and forms a part of the Plan. The provisions of and benefits under the Plan are subject to the terms and provisions of the Trust Agreement.

7.2 Group Trust. The Trustee may, unless restricted in writing by the Department, transfer assets of the Plan to a group trust that is operated or maintained exclusively for the commingling and collective investment of monies provided that the funds in the group trust consist exclusively of trust assets held under plans qualified under Section 401(a) of the Code, individual retirement accounts that are exempt under Section 408(e) of the Code, and eligible governmental plans that meets the requirements of Section 457(b) of the Code. For this purpose, a trust includes a custodial account that is treated as a trust under Section 401(f) of the Code or under Section 457(g)(3) of the Code. For purposes of valuation, the value of the interest maintained by the Plan in any such group trust will be the fair market value of the portion of the group trust held for the Plan, determined in accordance with generally recognized valuation procedures.

SECTION 8

Contribution Limitation

8.1 Contribution Limitation. The “Annual Addition” to a Participant’s Account for any Limitation Year is the total Contributions allocated to a Participant’s Account for that Limitation Year. For purposes of the Plan, the “Limitation Year” is the Plan Year. For each Limitation Year, the Annual Addition to a Participant’s Account may not exceed the lesser of \$40,000 or 100% of the Participant’s compensation (as defined in Section 415(c)(3) of the Code, which is all salary, wages and amounts received for services rendered to the State to the extent includable in gross income plus elective deferrals under Sections 402(g), 125, 132(f) and 457 of the Code) during that Limitation Year. The \$40,000 amount will be adjusted to reflect cost-of-living adjustments made by the Secretary of the Treasury pursuant to Section 415(d) of the Code.

8.2 Combining of Plans. In applying the limitation set forth in Section 8.1, reference to the Plan means this Plan, the Thrift Plan and all other defined contribution plans qualified under Section 401(a) of the Code (whether or not terminated) that are maintained by the State.

8.3 Correction of Excess Annual Addition. If it is anticipated that a Participant’s Annual Addition for a Limitation Year may exceed the limitation set forth in Section 8.1, the total Annual Addition to the Participant’s account under the Thrift Plan will be reduced to the extent needed to meet the applicable limit, in the manner specified in that plan.

SECTION 9

Distribution or Transfer of Accounts

9.1 Timing.

- (a) Assets in a Participant's Account may not be distributed, transferred or otherwise removed from the Account before the later of (i) the Account Access Date, or (ii) the day after the two-year anniversary of the most recent date on which Contributions were allocated to the Participant's Account; provided, however, that distributions may be made earlier as provided under Sections 9.3 or 9.5, or pursuant to the Participant's death.
- (b) If a Participant dies, the Participant's Account balance will be paid to his or her Beneficiary as soon as administratively practicable after the Participant's death.
- (c) Distribution or transfer of a Participant's Account will be made within a reasonable time after the Participant has elected a transfer or distribution (as applicable) and the value of the Participant's Account has been determined.

9.2 Participant Election. Subject to Section 9.1, during the period beginning on the Account Access Date through and including the Account Closing Date, a Participant's Account will be distributed or transferred under one of the options set forth under the following (a) or (b), as elected by the Participant at the time and in the manner required by the Department:

- (a) Lump-sum distribution of the Account balance.

- (b) Non-taxable transfer of the Account balance to CalPERS for the purpose of purchasing service credits under CalPERS for the period of the Participant's employment with the State during which he or she participated in the Plan.

If the Participant does not make a valid election of one of the above options, the Department will automatically transfer the Account balance to the Participant's account under the Thrift Plan, provided that if the Participant does not have an account under the Thrift Plan, the Department will establish a new account under that plan on the Participant's behalf to which the transfer will be allocated.

9.3 Required Minimum Distributions. Distribution of the balance of a Participant's Account will be made in accordance with Section 401(a)(9) of the Code and the regulations thereunder and as set forth below. If there is any conflict between the requirements of this Section 9.3 and Section 401(a)(9) of the Code and the regulations issued under Section 401(a)(9), Section 401(a)(9) of the Code and the regulations will apply. A Participant's Account will be distributed no later than April 1 of the calendar year following the later of (i) the calendar year in which the Participant attains 70 ½ or (ii) the calendar year in which the Participant's employment with the State terminates.

9.4 Direct Rollovers. Certain individuals who receive certain distributions under the Plan may elect that such distributions be paid in the form of a Direct Rollover (as described in Section 401(a)(31) of the Code and the regulations thereunder) to the trustee or custodian of an Eligible Retirement Plan that accepts Direct Rollovers, subject to the following:

- (a) Eligible Rollover Distribution. A distribution may be paid in a Direct Rollover under this Section only if the distribution constitutes an Eligible Rollover Distribution.
- (b) Eligible Retirement Plan. Direct Rollovers of Eligible Rollover Distributions may be made to Eligible Retirement Plans.
- (c) Elections. An Eligible Distributee's election of a Direct Rollover pursuant to this Section must be made at such time and in such manner as the Department determines. The Department shall establish rules and procedures it deems necessary to provide for distributions by means of a Direct Rollover.

9.5 Immediate Distributions to Alternate Payees. The Department shall direct distribution of the amount of a Participant's Account assigned to an Alternate Payee on the earliest date specified in the QDRO, without regard to whether such payments commence prior to the Participant's earliest retirement age (as defined in Section 414(p)(4)(B) of the Code). As set forth in Section 6.4, a separate Account will be set up for the Alternate Payee and administered in accordance with procedures adopted by the Department for that purpose.

9.6 Missing Participants or Beneficiaries. Each Participant and each Beneficiary must file with the Department in writing the Participant's or the Beneficiary's post office address and each change of post office address. If a Participant dies before the Participant receives the entire balance of the Participant's Account, the Participant's Beneficiary must file any change in the Beneficiary's post office address with the Department. Any communication, statement or notice addressed to a Participant or Beneficiary at the last post office address filed with the Department, or if no address is filed with the Department then, in the case of a Participant, at

the Participant's last post office address as shown on the State's records, shall be binding on the Participant and the Participant's Beneficiary for all purposes of the Plan. The State and the Department shall not be required to search for or locate a Participant or Beneficiary. If the Department notifies a Participant or Beneficiary that the Participant or Beneficiary is entitled to a payment and also notifies the Participant or Beneficiary of the provisions of this Section, and the Participant or Beneficiary fails to claim the Participant's or Beneficiary's benefits or make such person's whereabouts known to the Department within three years after the notification, the benefits of the Participant or Beneficiary shall escheat to the State, to the extent permitted by applicable law.

9.7 Facility of Payment. When a person entitled to benefits under the Plan is under legal disability, or, in the Department's opinion, is in any way incapacitated so as to be unable to manage the person's financial affairs, the Department may pay the benefits to such person's legal representative or the Department may direct the application of such benefits for the benefit of such person. Any payment made in accordance with the preceding sentence shall be a full and complete discharge of any liability for such payment under the Plan.

SECTION 10

General Provisions

10.1 Interests Not Transferable. Except as provided in Section 9.2(b), the interests of Participants and Beneficiaries under the Plan are not in any way subject to their debts or other obligations and, except as may be required by federal or State law, may not be voluntarily or involuntarily sold, transferred, alienated or assigned. Notwithstanding the foregoing, the Plan shall comply with any domestic relations order that, in accordance with procedures established by the Department, is determined to be a QDRO.

10.2 Absence of Guaranty. The Department, the State, and the Trustee do not in any way guarantee the Trust from loss or depreciation. The liability of the Trustee to make any payment under the Plan shall be limited to the assets held by the Trustee that are available for that purpose.

10.3 Employment Rights. The Plan does not constitute a contract of employment, and participation in the Plan shall not give any employee the right to be retained in the employ of the State, or any right or claim to any benefit under the Plan, unless such right or claim has specifically accrued under the terms of the Plan.

10.4 Litigation by Participants or other Persons. To the extent permitted by law, if a legal action against the State, the Trustee, or the Department by, or on behalf of, any person results adversely to that person, or if a legal action arises because of conflicting claims to a Participant, Alternate Payee or Beneficiary's benefits, the cost to the State, the Trustee, or the Department of defending the action shall be charged to the extent possible to the sums, if any,

that were involved in the action or were payable to the Participant, Alternate Payee or Beneficiary concerned.

10.5 Evidence. Evidence required of anyone under the Plan may be made by certificate, affidavit, document or other information that the person acting on it considers pertinent and reliable, and must be signed, made or presented by the proper party or parties.

10.6 Waiver of Notice. Any notice required under the Plan may be waived by the person entitled to such notice.

10.7 Controlling Law. To the extent not superseded by the laws of the United States, the laws of California (without regard to its choice of law principles) are controlling in all matters relating to the Plan.

10.8 Statutory References. Any reference in the Plan to the Code means the Internal Revenue Code of 1986, as amended. Any reference in the Plan to a section of the Code, or to a section of any other Federal law, shall include any comparable section or sections of any future legislation that amends, supplements or supersedes that section.

10.9 Severability. In case any provision of the Plan shall be held illegal or invalid for any reason, such illegality or invalidity shall not affect the remaining provisions of the Plan, and the Plan shall be construed and enforced as if such illegal and invalid provision had never been set forth in the Plan.

10.10 Number. Where the context admits, words in the plural include the singular, and the singular includes the plural.

10.11 Examination of Documents. Copies of the Plan and Trust Agreement, and any amendments thereto, are on file at the office of the Department where they may be examined by any Participant or other person entitled to benefits under the Plan during normal business hours.

10.12 Indemnification. To the extent permitted by law, any member or former member of the Department, any person who was, is, or becomes an officer of the State, or any employee of the State to whom the Department or the State has delegated any portion of its responsibilities under the Plan, shall be indemnified and saved harmless by the State (to the extent not indemnified or saved harmless under any liability insurance contract or other indemnification arrangement with respect to the Plan) from and against any and all liability to which such person may be subject by reason of any act done or omitted to be done in good faith with respect to the administration of the Plan, including all expenses reasonably incurred in that person's defense in the event the State fails to provide such defense after having been requested in writing to do so.

10.13 Form of Elections. Notwithstanding anything contained in the Plan to the contrary, any election permitted or required to be made by a Participant or Beneficiary under this Plan shall be made pursuant to one of the following methods as determined by the Department in its sole discretion: (i) by filing a written election on a form specified by the Department; (ii) by telephone through a telephone system designated by the Department; or (iii) by any other method specified by the Department.

10.14 No Reversion. The State will have no right, title or interest in the assets of the Trust.

Except as required by Section 9.6, no part of the assets of the Trust at any time will revert to or be paid to the State, directly or indirectly.

10.15 Plan Expenses. The reasonable cost of administering the Plan shall be paid by the Trust through an assessment of fees to the department in which the Participant is employed unless paid by the Department.

SECTION 11
Amendment and Termination

11.1 Amendment. While the State expects and intends to continue the Plan, the State reserves the right to amend the Plan by action of the Department. The Department is authorized to cause to be prepared, to approve, and to execute any amendments to the Plan that the Department determines are necessary to comply with applicable law, regulations, and rulings or to reflect rules and procedures developed by the Department. Notwithstanding the foregoing:

- (a) An amendment may not change the duties and liabilities of the Department or the Trustee without the consent of the Department or the Trustee, whichever is applicable;
- (b) An amendment shall not reduce the value of a Participant's nonforfeitable benefits accrued prior to the later of the adoption or the effective date of the amendment; and
- (c) Under no condition shall any amendment result in the return or repayment to the State of any part of the Trust or the income therefrom or result in the distribution of the Trust for the benefit of anyone other than Participants and any other persons entitled to benefits under the Plan.

11.2 Termination. Subject to applicable law, the Plan shall terminate as to all Participants on any date specified by the State provided 30 days' advance written notice of the termination is given to the Department and the Participants.

11.3 Nonforfeitability and Distribution on Termination. On termination or partial termination of the Plan, the rights of all affected Participants, Beneficiaries and Alternate Payees to benefits accrued to the date of such termination, after all adjustments then required have been made, shall be nonforfeitable. The Department shall specify the date of such termination or partial termination as a special Accounting Date. As soon as practicable after all adjustments required as of that date have been made to the Accounts of Participants, Beneficiaries and Alternate Payees the Department shall distribute benefits under the Plan to each such affected Participant, Beneficiary and Alternate Payee. All appropriate provisions of the Plan shall continue to apply until the Accounts of all such Participants, Beneficiaries and Alternate Payees have been distributed under the Plan.

11.4 Notice of Termination. Participants, or Beneficiaries if the Participant is deceased, and Alternate Payees shall be notified of the termination of the Plan within a reasonable time.

11.5 Plan Merger, Consolidation, Etc. In the case of any merger or consolidation with, or transfer of assets or liabilities to, any other Plan, each Participant's benefits (if the Plan terminated immediately after such merger, consolidation or transfer) shall be equal to or greater than the benefits the Participant would have been entitled to receive if the Plan had terminated immediately before the merger, consolidation or transfer.

SECTION 12

The Department

12.1 Plan Administration. The Plan is administered by the Department. Any notice or document required to be given to or filed with the Department shall be properly given or filed if delivered or mailed, by registered or certified mail, postage prepaid, to the Savings Plus Program c/o the Department.

12.2 The Department's General Powers, Rights, and Duties. The Department will have all the powers necessary and appropriate to discharge its duties under the Plan, which powers shall be exercised in the sole and absolute discretion of the Department, including, but not limited to, the following:

- (a) To construe and interpret the provisions of the Plan and to make factual determinations thereunder, including the power to determine the rights or eligibility under the Plan of Eligible Employees, Participants, or any other persons, and the amounts of their benefits (if any) under the Plan, and to remedy ambiguities, inconsistencies or omissions. Such determinations by the Department shall be binding on all parties.
- (b) To adopt such rules of procedure and regulations as in its opinion may be necessary for the proper and efficient administration of the Plan and as are consistent with the Plan and Trust agreement.
- (c) To enforce the Plan in accordance with the terms of the Plan and the Trust and in accordance with the rules and regulations the Department has adopted.

- (d) To direct the Trustee with respect to payments or distributions from the Trust in accordance with the provisions of the Plan.
- (e) To furnish the State with such information as may be required by it for tax or other purposes in connection with the Plan.
- (f) To employ agents, attorneys, accountants, actuaries or other persons (who also may be employed by the State) and to allocate or delegate to them such powers, rights and duties as the Department may consider necessary or advisable to properly carry out the administration of the Plan, provided that such allocation or delegation and the acceptance thereof by such agents, attorneys, accountants, actuaries or other persons, shall be in writing.
- (g) The Department reserves the right to charge reasonable fees to Participants for the administration of the Plan.

12.3 Information Required by the Department. Each person entitled to benefits under the Plan shall furnish the Department with such documents, evidence, data or information as the Department considers necessary or desirable for the purpose of administering the Plan. The State shall furnish the Department with such data and information as the Department may deem necessary or desirable in order to administer the Plan. The records of the State as to an Eligible Employee's or a Participant's period of employment, termination of employment and the reason therefore, Leaves of Absence, reemployment, and compensation shall be conclusive on all persons unless proven to the Department's satisfaction to be incorrect.

12.4 Review of Benefit Determinations. The Department shall provide notice in writing to any Participant, Beneficiary or Alternate Payee whose claim for benefits under the Plan is denied, and the Department shall afford such Participant, Beneficiary or Alternate Payee a review of its decision if requested.

12.5 Department's Decision Final. Subject to applicable law, any interpretation of the provisions of the Plan and any decisions on any matter within the discretion of the Department made by the Department in good faith shall be binding on all persons. A misstatement or other mistake of fact shall be corrected when it becomes known, and the Department shall make such adjustment on account thereof as it considers equitable and practicable.

CERTIFICATE

I, Michael Navarro, Director of the State of California Department of Personnel
Administration, hereby cause the attached document to be executed as the State of California
Savings Plus Program Alternate Retirement Program, effective August 1, 2004.

Dated this _____ day of _____, _____.

STATE OF CALIFORNIA DEPARTMENT OF
PERSONNEL ADMINISTRATION

by: Michael T. Navarro
Director